THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 11576 of 2006

DATED: 16-06-2006

BETWEEN:

Chinna Venkatareddygari Venkatrami Reddy .. Petitioner

And

The District Collector, Kurnool District and another

.. Respondents

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NO : 11576 of 2006

ORAL ORDER:

This writ petition is filed asserting that the petitioner is the owner of Ac.4.10

cents of dry agricultural land in Vengalreddypeta, hamlet of Kadumalakaluva Village; that in survey No.93 he owns Ac.0.93 cents of dry land and is in occupation, possession and enjoyment of the said land. On 08.06.2006, according to the petitioner, the second respondent-the Mandal Revenue Officer-cum-Land Acquisition Officer, Bandi Atmakur Mandal, Kurnool District is alleged to have come to the land and started measuring the same. When questioned by the petitioner, the second respondent informed him that they are taking the land for distribution of house sites. According to the petitioner, he questioned the authority and power of the second respondent to take possession of his land without initiating land acquisition proceedings and paying compensation. According to the petitioner, the second respondent gave evasive answers saying that he is under pressure from the higher authorities to take possession of the land and the second respondent does not know whether the said land is going to be acquired and compensation paid. In these circumstances, the petitioner is before this Court apprehending dispossession from his property by the second respondent without due process of law.

Our citizens are guaranteed in our constitutional order under which the legislation, the Land Acquisition Act, 1894 or any other extant law does not permit any executive authority to dispossess the citizen from his land without following the due process of law. When land is sought to be acquired, acquisition of property must be initiated either under the provisions of the Act or any other law permitting acquisition of land of private individuals. Any executive authority under the colour of office, if proceeds to trespass into private property of the citizen and seeks to dispossess him, will lay himself open to a serious charge of public misconduct and also of criminal misconduct. The fact that it is a public servant that violates a law does not confer any immunity under any known law of this land. If the second respondent or any other person in public office or even a private individual for that matter forcibly tries to dispossess the petitioner, the petitioner is at liberty to use countervailing force to resist such illegal conduct by way of private defence. The petitioner has also a remedy of making a complaint to the jurisdictional police station of criminal trespass into his land by a public official without due authority of law. Upon such a complaint being made, the police are obligated under law (the Code of Criminal Procedure) to register the complaint and take up investigation and give full measure of sovereign protection of law to the citizen to prohibit any person

including a person in public office from abusing the law and taking illegal possession of private property. Any failure on the part of the police to protect the citizen in such circumstances would amount to abuse of public office and lay open such police officer or the hierarchy of police officers to discipline for abdication of statutory obligations. A third alternative is also available to the petitioner to approach the civil Court of competent jurisdiction seeking injunctive relief including against persons holding public office who in abuse of such public office or under the colour of such office seek to trespass into private property. Even expeditious orders could be obtained from the civil Court and not necessarily on working days.

In view of the availability of a plurality of complementary remedies and at a location proximate to the petitioner, of this Court does not consider it appropriate to exercise its jurisdiction to interfere, under Article 226 of the Constitution. No case is made out for interference in this writ petition. The writ petition is dismissed. The writ petitioner is at liberty to pursue available remedies. No costs.

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GODA RAGHURAM,J

Dated: 16-06-2006

Note: Issue CC as soon as possible.

B/o kvrm